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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,248	09/27/2002	Doris MacAllister	02-094-DM	2124
32118 7590 03/06/2008 LAMBERT & ASSOCIATES, P.L.L.C. 92 STATE STREET BOSTON, MA 02109-2004			EXAMINER PHAM, HUONG Q	
			ART UNIT 3772	PAPER NUMBER
			MAIL DATE 03/06/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/065,248

Applicant(s)

MACALLISTER, DORIS

Examiner

HUONG Q. PHAM

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/6/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/27/2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Applicant has indicated co-pending applications in the first paragraph of the specification.

The first page of the specification should be updated to clarify the status of all related applications noted in the first paragraph of the specification. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. _____" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

The indicated allowability of claims 19 and 20 is withdrawn in view of the newly discovered reference(s) to Hunt (4,977,893) and Bailey (285,545).

Rejections based on the newly cited reference(s) follow.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

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Therefore, the subject matter in claims 6 , 14 and 16 must be shown or the feature(s) canceled from the claim(s).

As for claim 6, it is unclear how the device is configured and secured to an arm and shoulder.

As for claims 14 and 16, the recited " means for coupling" is not shown in the drawings. It is unclear how this recited " means for coupling" is connected to the other recited structure in the claims.

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only One figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As regards to the claimed structure in claim 6, from the disclosure, it is unclear how the device is configured and secured to an arm and shoulder. Therefore, note that the examiner can not perform a proper search for the claimed structure as recited in claim 6.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5, 7- 10, 13-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hunt (4,977,893).

Note the figure 5 of Hunt (attached to this office action) to show how the examiner interpret the claimed structure.

As for claim 1, Hunt teaches a device capable for being used for prevention of the abnormal joint rotation (note figure 10), comprising an appendage securing section constructed and arranged to secure to an appendage, a torso securing section having means for coupling to the appendage securing section, wherein the torso securing section is constructed and arranged to secure to the torso of the patient and therefore capable of applying correcting pressure directed upon the appendage securing section, wherein the correcting pressure exerted by the torso securing section upon the appendage securing section is capable of countering the direction of the abnormal joint rotation.

Note in column 3, lines 11-16, Hunt indicates that the bottom extension 28 maybe secured around the abdomen or one hip of the user. Also, note in figure 10 that the hook-loop means 24 at the end of extensions 26, 28 allow the extensions 26, 28 to be attached to the stretchable fabric 12 at any desired location.

As for claim 2, Hunt teaches that the torso securing section is constructed and arranged to secure to the torso of the patient and is capable of applying correcting pressure upon the appendage securing section, where in the correcting pressure exerted by the torso securing section upon the appendage securing section is capable of countering the direction of the external rotation of the joint.

As for claim 5, note in figure 10 that the Hunt's device is capable of being used as recited , wherein the appendage suffering from the abnormal joint rotation is a leg, wherein the joint having the abnormal rotation is a hip.

As for claim 7, note that Hunt's the torso securing section 12 is composed of an elastic material (stretchable fabric).

As for claim 8, Hunt teaches an appendage securing section constructed and capable of being arranged to secure to a thigh of a leg having the abnormal rotation of the hip; and a torso securing section is constructed and arranged to secure to the torso of the patient and capable of applying correcting pressure directed upon the appendage securing section, wherein the correcting pressure exerted by the torso securing section upon the appendage securing section capable of countering the direction of the abnormal rotation of the hip.

As for claim 9, Hunt teaches that the torso securing section is constructed and arranged to secure to the torso of the patient and capable of applying pressure upon the appendage securing section, and therefore is capable of providing a pressure which is

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inwardly directed in relation to the hip having external rotation with a result of prevention of the external rotation of the hip.

As for claim 10, Hunt teaches that the torso securing section is constructed and arranged to secure to the torso of the patient and is capable of applying pressure upon the appendage securing section, and therefore the pressure is capable of being simultaneously inwardly, frontally and upwardly directed in relation to the hip having external rotation with a result of prevention of the external rotation of the hip.

As for claim 13, Hunt teaches that the appendage securing section has a first end and a second end (note figures 9 and 10) ; and the torso securing section has a first end, an intermediate section, and a securing end, wherein the securing end 28 of the torso securing section has means 24 capable of being coupled to the appendage securing section (note figure 10).

As for claim 14, Hunt teaches that the appendage securing section has means 24 for coupling of the first end of the appendage securing section to the second end of the appendage securing section (note that attached figure 5 of Hunt) .

As for claim 15, Hunt teaches that the first end of the appendage securing section is coupled to the second end of the appendage securing section.

As for claim 16, Hunt teaches that the torso securing section has means for coupling of the first end of the torso securing section (note line A-A of the attached figure 5) to the intermediate section of the torso securing section.

As for claim 17, Hunt teaches that the first end of the torso securing section is coupled to the intermediate section of the torso securing section.

As for claim 18, Hunt teaches that the second end of the appendage securing section (note figure 10, and note the attached figure 5) is "joined" to the first end of the torso securing section (note that all structures are connected & therefore all structures are jointed together) thereby forming a wrap.

Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Carn et al (5,425,702) .

As for claim 1, Carn et al clearly teaches a device capable for being used for prevention of the abnormal joint rotation (note figures 4 and 12), comprising an appendage securing section constructed and arranged to secure to an appendage, a torso securing section having means for coupling to the appendage securing section, wherein the torso securing section is constructed and arranged to secure to the torso of the patient and therefore capable of applying correcting pressure directed upon the appendage securing section, wherein the correcting pressure exerted by the torso securing section upon the appendage securing section is capable of countering the direction of the abnormal joint rotation.

As for claim 6, note in figure 12 , Carn et al teaches that the device is capable of being used for a appendage suffering from the abnormal joint rotation is an arm, wherein the joint having the abnormal rotation is a shoulder.

Claims 1-3, 5, 8-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bailey (285,545).

Note the figures 4 and 5 of Bailey (attached to this office action) to show how the examiner interpret the claimed structure.

As for claim 1, Bailey clearly teaches a device capable for being used for prevention of the abnormal joint rotation (note figures 4 and 5), comprising an appendage securing section constructed and arranged to secure to an appendage, a torso securing section having means for coupling to the appendage securing section, wherein the torso securing section is constructed and arranged to secure to the torso of the patient and therefore capable of applying correcting pressure directed upon the appendage securing section, wherein the correcting pressure exerted by the torso securing section upon the appendage securing section is capable of countering the direction of the abnormal joint rotation.

As for claim 2, Bailey teaches that the torso securing section is constructed and arranged to secure to the torso of the patient and is capable of applying correcting pressure upon the appendage securing section, where in the correcting pressure exerted by the torso securing section upon the appendage securing section is capable of countering the direction of the external rotation of the joint.

As for claim 3, Bailey teaches that the torso securing section is constructed and arranged to secure to the torso of the patient and capable of applying pressure upon the appendage securing section.

As for claim 5, note in figures 4 and 5 that the Bailey's device is capable of being used as recited, wherein the appendage suffering from the abnormal joint rotation is a leg, wherein the joint having the abnormal rotation is a hip.

As for claim 8, Bailey teaches in figures 4 and 5, an appendage securing section constructed and capable of being arranged to secure to a thigh of a leg having the abnormal rotation of the hip; and a torso securing section is constructed and arranged to secure to the torso of the patient and capable of applying correcting pressure directed upon the appendage securing section, wherein the correcting pressure exerted by the torso securing section upon the appendage securing section capable of countering the direction of the abnormal rotation of the hip.

As for claim 9, Bailey teaches in figure 5 that the torso securing section is constructed and arranged to secure to the torso of the patient and capable of applying pressure upon the appendage securing section, and therefore is capable of providing a pressure which is inwardly directed in relation to the hip having external rotation with a result of prevention of the external rotation of the hip.

As for claim 10, Bailey teaches in figure 5 that the torso securing section is constructed and arranged to secure to the torso of the patient and is capable of applying pressure upon the appendage securing section, and therefore the pressure is capable

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of being simultaneously inwardly, frontally and upwardly directed in relation to the hip having external rotation with a result of prevention of the external rotation of the hip.

As for claim 11, Bailey teaches in figure 4 that the torso securing section is constructed and arranged to secure to the torso of the patient and is capable of applying pressure upon the appendage securing section, wherein such pressure is outwardly directed in relation to the hip having internal rotation with a result of prevention of the internal rotation of the hip.

As for claim 12, Bailey teaches in figure 4 that the torso securing section is constructed and arranged to secure to the torso of the patient and is capable of applying pressure upon the appendage securing section, wherein such pressure is simultaneously outwardly, rearwardly and upwardly directed in relation to the hip having internal rotation, with a result of prevention of the internal rotation of the hip.

As for claim 13, Bailey teaches that the appendage securing section has a first end and a second end (note the attached figure 4) ; and the torso securing section has a first end, an intermediate section, and a securing end, wherein the securing end of the torso securing section has means capable of being coupled to the appendage securing section .

As for claim 14, Bailey teaches that the appendage securing section has means for coupling of the first end of the appendage securing section (note the attached figure 4) to the second end of the appendage securing section (all structures are connected).

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As for claim 15, Bailey teaches in figure 4 that the first end of the appendage securing section is coupled to the second end of the appendage securing section (all structures are connected).

As for claim 16, Bailey teaches in figure 4 that the torso securing section has means for coupling of the first end of the torso securing section to the intermediate section of the torso securing section.

As for claim 17, Bailey teaches in figure 4 that the first end of the torso securing section is coupled to the intermediate section of the torso securing section.

As for claim 18, Bailey teaches in figure 4 that the second end of the appendage securing section is " joined" to the first end of the torso securing section (note that all structures are connected & therefore all structures are jointed together) thereby forming a wrap.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 4 is rejected under 35 U.S.C. 103(a) as being obvious over Hunt (4,977,893) in view of Engel (5,993,375) .

Note all the comments relative to all the claims above for the teaching of Hunt.

Engel teaches magnets secured on a torso securing device for magnetic therapy (figure 4).

In view of the teaching of Engel, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a magnetic body to the torso securing section of Hunt's device to provide magnetic treatment to a user.

Claim 4 is rejected under 35 U.S.C. 103(a) as being obvious over Bailey (285,545) in view of Engel (5,993,375) .

Note all the comments relative to all the claims above for the teaching of Bailey.

Engel teaches magnets secured on a torso securing device for magnetic therapy (figure 4).

In view of the teaching of Engel, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a magnetic body to the torso securing section of Bailey's device to provide magnetic treatment to a user.

Claim 7 is rejected under 35 U.S.C. 103(a) as being obvious over Bailey (285,545) in view of Hunt (4,977,893) .

Note all the comments relative to all the claims above for the teaching of Bailey.

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Hunt teaches the torso securing section 12 which is composed of an elastic material (stretchable fabric) .

In view of the teaching of Hunt, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use elastic material for the device of Bailey in order to provide the desired fitness and support for different sizes of user.

Claim 19 is rejected under 35 U.S.C. 103(a) as being obvious over Hunt (4,977,893).

Note all the comments relative to the claims above for the teaching of Hunt.

As discussed above, Hunt teaches a device having structures capable of being used for prevention of the external rotation of the hip and capable of providing directed pressure upon a leg suffering from the external rotation of the hip, comprising: an appendage securing section having a first end and a second end; a torso securing section having a first end, an intermediate section and a securing end, wherein the securing end of the torso securing section has means for coupling to the appendage securing section; and wherein the second end of the appendage securing section is joined to the first end of the torso securing section.

Providing a device with all the structure as taught by Hunt, it would be obvious to one ordinary skill in the art , at the time the invention was made , to use the device of Hunt and perform the steps of:

- a) placing the first end of the appendage securing section of the wrap against an inside of patient's thigh of the leg suffering from the external rotation of the hip, wherein the appendage securing section of the wrap is positioned in front of the thigh;
- b) wrapping the appendage securing section of the wrap at least once around the thigh;
- c) wrapping the torso securing section at least once around patient's torso by bringing the torso securing section of the wrap up and over the lateral side of the hip suffering from the external rotation of the hip, over patient's lower back, and over patient's lateral side which lateral side is opposed to the side suffering from the external rotation of the hip; and
- d) coupling of the securing end of the torso securing section of the wrap to the appendage securing section at the front of the thigh (Note in column 3, lines 11-16, Hunt indicates that the bottom extension 28 maybe secured around the abdomen or one hip of the user. Also, note in figure 10 that the hook-loop means 24 at the end of extensions 26, 28 allow the extensions 26, 28 to be attached to the stretchable fabric 12 at any desired location).

By wearing and wrapping Hunt's device as shown in figure 10, it would be obvious to one ordinary skill in the art, at the time the invention was made that Hunt's device can be used for treatment and prevention of the external rotation of the hip and is capable of providing directed pressure upon a leg suffering from the external rotation of the hip.

Claim 20 is rejected under 35 U.S.C. 103(a) as being obvious over Bailey (285,545).

Note all the comments relative to all the claims above for the teaching of Bailey.

As discussed above, note in figure 4 that Bailey teaches a device having structures capable of being used for prevention of the internal rotation of the hip and capable of providing directed pressure upon a leg suffering from the internal rotation of the hip, using a wrap, comprising an appendage securing section having a first end and a second end; the a torso securing section having a first end, an intermediate section, and a securing end, wherein the securing end of the torso securing section has means for coupling to the appendage securing section; and wherein the second end of the appendage securing section is joined to the first end of the torso securing section.

Providing a device with all the structure as taught by Bailey, it would be obvious to one ordinary skill in the art , at the time the invention was made , to use the device of Bailey and perform the steps of:

- a) placing the first end of the appendage securing section of the wrap against an outside of patient's thigh of the leg suffering from the rotation of the hip, wherein the appendage securing section of the wrap is positioned in front of the thigh;
- b) wrapping the appendage securing section of the wrap at least once around the thigh;

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c) wrapping the torso securing section at least once around patient's torso by bringing the torso securing section of the wrap up and over the front of the thigh and over the abdomen, over patient's lateral side which lateral side is opposed to the side suffering from the internal rotation of the hip, and over patient's lower back; and

d) coupling of the securing end of the torso securing section of the wrap to the appendage securing section at the front of the thigh.

By wearing and wrapping Bailey's device as shown in figure 4, it would be obvious to one ordinary skill in the art, at the time the invention was made that Bailey's device can be used for treatment and prevention of the internal rotation of the hip and is capable of providing directed pressure upon a leg suffering from the internal rotation of the hip.

It is noted that in claim 20, line 12, it appears that "external" should be "internal". On line 22, "ht" is a misspelled word.

Response to Arguments

Applicant's arguments filed on July 06, 2007 have been considered but are moot in view of the new ground(s) of rejection.

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The patents to Kirkland (3,529,601), Jolly (4,790,855) , Brown (2,802,465) , Whinery (2,531,757), Tanaka(5,928,175), Hage(716,221), and De Bogory, SR (3,091,238) are cited to show devices having similar structures capable of being used for prevention of the abnormal joint rotation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUONG Q. PHAM whose telephone number is (571)272-4980. The examiner can normally be reached on M-W, 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272 - 4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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February 25, 2008

/Huong Q. Pham/
Examiner, Art Unit 3772

Branco
PATRICIA BIANCO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
3/3/08

U.S. Patent

Dec. 18, 1990

Sheet 1 of 3

4,977,893

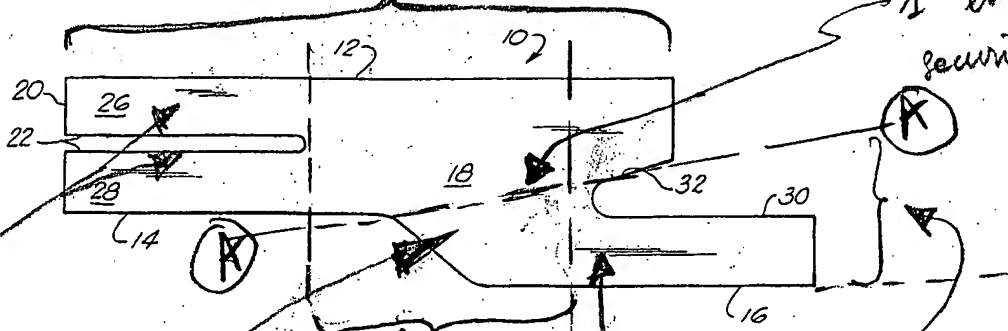


FIG. 5

sewing
end of
the
torso securing
section

Appendage securing
section

intermediate
section (of the
torso securing
section)

FIG. 4

second end of
the appendage
securing section

1st end of the
appendage
securing
section

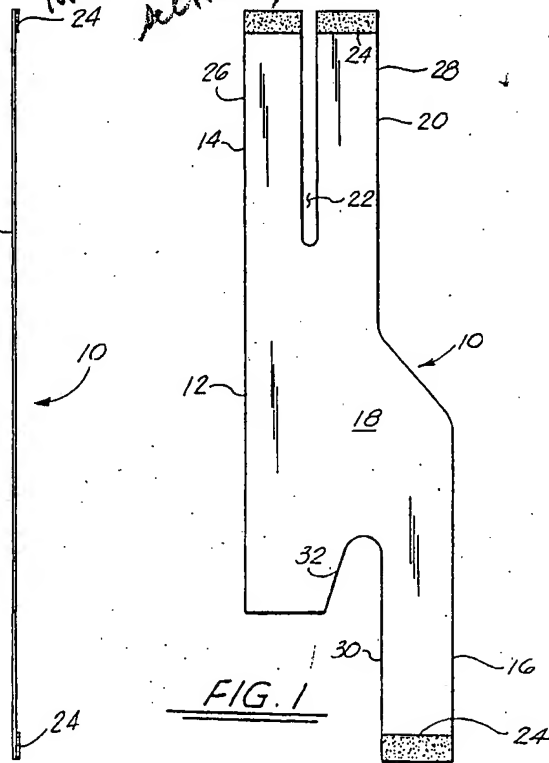


FIG. 1

FIG. 2



FIG. 6

FIG. 3

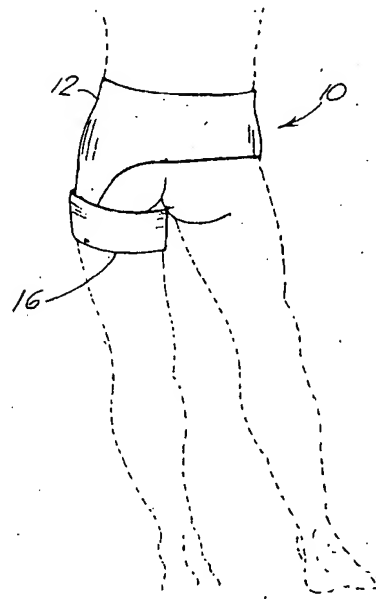
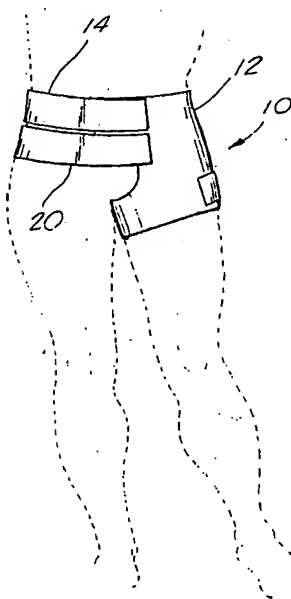
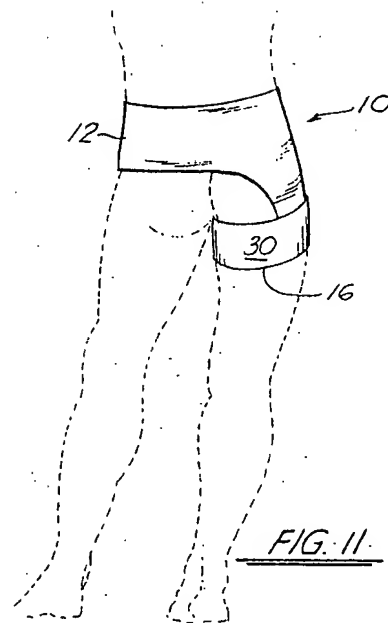
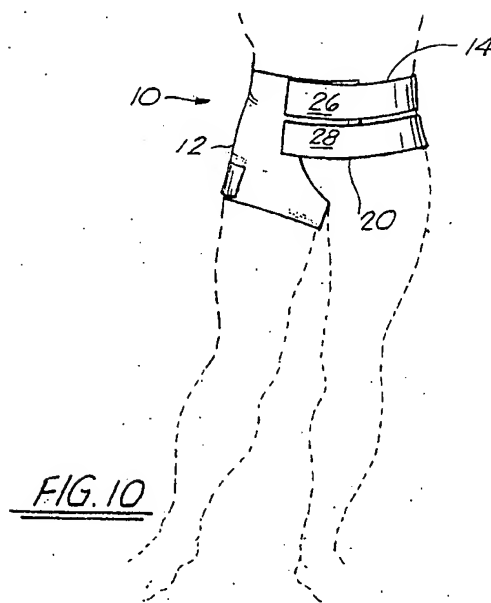


FIG. 12

FIG. 13

(No Model.)

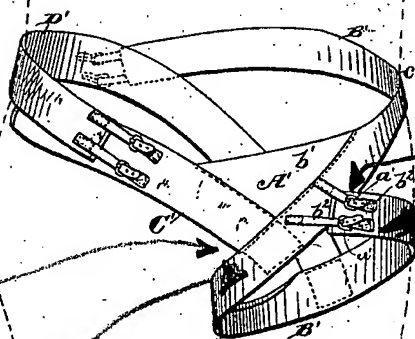
3 Sheets—Sheet 2.

L. C. BAILEY.
COMBINED TRUSS AND BANDAGE.

No. 285,545.

Patented Sept. 25, 1883.

Fig. 4.



1st end of
the torso
securing section

sewing end of the
torso securing section

2nd end of the
appendage securing
section.

1st end of
the appendage
securing section

Fig. 6.

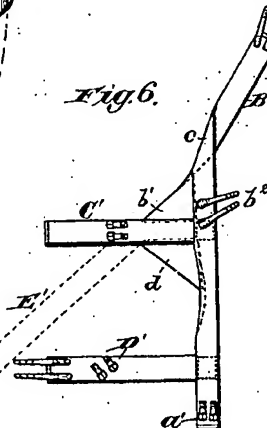
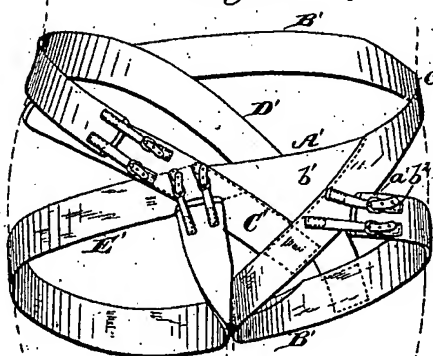


Fig. 5.



Witnesses.

Robert Emmett.

George W. Rea.

Inventor.

Leonard C. Bailey.

By James L. Norris.
Atty.